

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

PAUL PARKS,

Petitioner,

v.

**STEVEN GLUNT,
THE DISTRICT ATTORNEY OF THE
COUNTY OF PHILADELPHIA, and
THE ATTORNEY GENERAL OF THE
STATE OF PENNSYLVANIA,
Respondents.**

CIVIL ACTION

NO. 15-526

ORDER

AND NOW, this 18th day of April, 2018, upon consideration of Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus filed by *pro se* petitioner, Paul Parks, the record in this case, the Report and Recommendation of United States Magistrate Judge Elizabeth T. Hey dated March 9, 2018, and Objection to the Report and Recommendation filed by *pro se* petitioner, **IT IS ORDERED** as follows:

1. The Report and Recommendation of United States Magistrate Judge Elizabeth T. Hey dated March 9, 2018, is **APPROVED AND ADOPTED**;

2. The Objection to the Report and Recommendation filed by *pro se* petitioner is **OVERRULED** for the reasons state in the Report and Recommnedation. The Objection relates to the testimony of a witness, Malik Mustafa, and, specifically, his unredacted statement which was received in evidence and which included inculpatory statements made by two non-testifying declarants. The Magistrate Judge properly concluded that, because the statements by the two non-testifying declarants were made at a party, they were not testimonial and, as a consequence, did not violate the Confrontational Clause. *United States v. Hendricks*, 395 F.3d 173 (3d Cir. 2005). The Magistrate Judge correctly determined that the challenged statements were not

inadmissible hearsay under Pennsylvania Rule of Evidence 803(25)(b). The fact that the *Hendricks* case involved statements recorded in a wiretap investigation does not render that authority distinguishable;

3. The Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus filed by *pro se* petitioner, Paul Parks, is **DENIED**;

4. The Motion Requesting Leave to Amend His Habeas Corpus Petition filed by *pro se* petitioner is **DENIED**.

IT IS FURTHER ORDERED that a certificate of appealability will not issue because reasonable jurists would not debate this Court's decision that the petition does not state a valid claim of the denial of a constitutional right with respect to petitioner's claims. *See* 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

BY THE COURT:

/s/ **Hon. Jan E. DuBois**

DuBOIS, JAN E., J.